

the  
**LOUISIANA BOARD OF VETERINARY MEDICINE**  
**Report to Licensees**

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April 2000

Dick C. Walther, DVM, President • Adrienne A. Aycock, DVM, Vice-President • George E. Gowan, DVM, Secretary/Treasurer  
Robert M. Lofton, DVM, Member • J. Edwin Davis, DVM, Member

## **SUBMISSION OF REQUESTS FOR DECLARATORY STATEMENTS**

If you have questions regarding any provisions of the Louisiana Veterinary Practice Act, laws, or rules governing the practice of veterinary medicine in the state of Louisiana, you are encouraged to write the Louisiana Board of Veterinary Medicine for clarification in the form of a declaratory statement from the Board.

As per board rule §1423, *Declaratory Statements*, published November 20, 1999, requests for declaratory statement are made in the form of written petitions to the Board. These written petitions should provide the name and address of the petitioner, a detailed statement of the matter in question, and the specific statute, law, rule, or regulation in question, if known.

Petitions for declaratory statements will be presented to the full board for review and

consideration. A written declaratory statement from the Board will be forwarded to the petitioner.

Verbal requests for declaratory statements will not be accepted by the Board. Questions telephoned into the Board's administrative office may delay a proper response in the event all information involved in the situation in question is not conveyed and/or there is a miscommunication between the caller and the administrative staff.

Please remember to put all the details you can into your request for consideration by the Board. Requests should be submitted to the Board office by mail at 263 Third Street, Suite 104, Baton Rouge, LA 70801, by fax at (225)342-2176, or by email at <LBVM@eatel.net>.

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## **WHO CAN LAWFULLY DISPENSE HEARTGARD AND TO WHOM?**

**By Michael Tomino, LBVM General Counsel**

As General Counsel for the Louisiana Board of Veterinary Medicine (the "Board"), I have been asked to prepare an article for this edition of the newsletter which addresses dispensing legend drugs. More particularly, my article intends to address those individuals who can lawfully dispense legend drugs and what are the legal requirements to do so. In providing a legal analysis, it is first necessary to establish the facts and, thereafter, apply the law. For purposes of discussion, we will use the factual scenario where a licensed veterinarian has opened a pet shop and wishes to dispense legend drugs from the store.

The Veterinary Practice Act, more particularly, LSA R.S. 37:1513, provides definitions which are used in the law and defines in Subsection (4) "the practice of veterinary medicine" to include "the prescription or administration of any drug, medicine, biological apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, ..., or to render advice or recommendation with regard to any of the above." Section 1514 of the Veterinary Practice Act mandates that "no person shall practice veterinary medicine in the State who is not a licensed veterinarian or the holder of a valid temporary permit issued by the Board." Section 1514 also provides for exceptions which are not applicable to the present discussion.

Therefore, with regards to “who” can dispense a legend drug such as Heartgard in Louisiana, the law very clearly requires that a person must hold a license or temporary permit to practice veterinary medicine issued by the Board.

Now, we must answer the question as to “whom” can the Heartgard or other legend drugs be dispensed. Pursuant to Rule 705 lawfully promulgated by the Board, a veterinarian-client-patient relationship (“VCPR”) is required in order for a licensed veterinarian to administer, prescribe, dispense, deliver, or order any drug, medicine, chemical or controlled substance. Rule 700 states that the VCPR exists when:

1. The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and
2. The client (duly or authorized agent) has agreed to follow the instructions of the veterinarian, and
3. The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that:
  - a. the veterinarian or associate veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) and/or the animal’s records, and/or by medically appropriate and timely visits to the premises where the animal(s) are kept, or
  - b. the veterinarian has agreed to serve as a consultant to the licensed, primary care veterinarian with whom the client and patient have established a relationship which meets the criteria of paragraph (a) above, and
  - c. the primary veterinarian is readily available for follow-up in the event of adverse reactions of the failure of the regime of therapy.

Therefore, if the veterinarian dispenses legend drugs from the pet store it will be necessary to establish a veterinarian-client-patient relationship in order to be in compliance with the Veterinary Practice Act and the Board’s Rules. For a licensed veterinarian to do otherwise subjects his license to disciplinary sanction by the Board. In comparison, for non-licensed persons to dispense a legend drug such as Heartgard to anyone would subject him to civil injunction by the Board and potentially criminal prosecution and fines.

In conclusion, the opinion provided in this article applies equally by law to all modes of transfers of legend drugs, such as Heartgard, to the consumer including face-to-face, telephone, mail order, or Internet web sites.

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## **Rules Update**

[Please call or write the Board office for a copy of any Notice of Intents or Rules described below.]

### **Fees and License Renewal Late Fees**

The Board’s intent to amend Rules 501 and 505 relating to increases in licensing and renewal fees was presented in the December 1999 newsletter. These rule amendments became effective on December 20, 1999.

### **Fees; Certificate Renewal; Late Charge for RVTs**

The Board’s intent to amend Rules 809 and 811 relating to increases in licensing and renewal fees was presented in the December 1999 newsletter. These rule amendments became effective on January 20, 2000.

### **Renewals**

The Board’s intent to amend Rule 305 relating to annual renewal of licenses, notification of expired licenses, and renewal of expired licenses was presented in the December 1999 newsletter. This rule amendment became effective on February 20, 2000.

### **Certified Animal Euthanasia Technicians**

The Board’s intent to amend Rule 704 and Chapter 12 regarding clarification of the application process, revision of fee schedule, expiration and revocation of certification, complaints and disciplinary proceedings, maintenance and

security of drugs, creation and responsibilities of a "Lead" CAET, and requirement of continuing education for renewal was presented in the December 1999 newsletter. These rule amendments became effective February 20, 2000.

### **Registered Equine Dentists**

The Board's intent to adopt Chapter 15 pertaining to registration and regulation of individuals to practice equine dentistry and other relative matters was presented in the December 1999 newsletter. These rules adoptions became effective March 20, 2000.

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## **Disciplinary Cases**

**99-1016V:** A Consent Order was entered into by the licensee and the Board which stated, in part, that the respondent veterinarian did not at any time during treatment of the patient perform x-rays or lab work resulting in misdiagnosis and mistreatment of patient.

It was concluded that the respondent veterinarian violated 37:1526.A(7) and rule 1023;

37:1526.A(14) and rule 1001; 37:1526.A and rule 106 of the Louisiana Veterinary Practice Act.

Discipline, in part, included a fine; continuing education in clinical small animal medicine and records; and payment of investigative and disciplinary costs.

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## **2000/2001 LICENSE RENEWAL**

Pursuant to R.S. 37:1524 of the Louisiana Veterinary Practice Act, renewal application packets for the year 2001 renewal of your Louisiana license will be mailed to licensees the last week of June 2000. The renewal period will run from July 1 through September 30, 2000. All licenses expire after September 30 annually. Any licenses not renewed by September 30, 2000 will EXPIRE. In accordance with Board rule §305.C.1, any person who practices veterinary medicine in the state of Louisiana after the expiration of his/her Louisiana license and willfully or neglectfully fails to renew such license shall be guilty of practicing veterinary medicine in violation of R.S. 37:1514 of the Louisiana Veterinary Practice Act.

A complete renewal consists of (1) the original, complete, signed renewal application form; (2) payment of the renewal fee; (3) acceptable proof of participation in no less than 16 hours of approved continuing education; and (4) payment of any late fees, if applicable.

Continuing education must be taken between July 1, 1999 and June 30, 2000 to be accepted. CE programs taken prior to July 1, 1999 will not be accepted. CE programs taken after June 30, 2000 are acceptable, but the \$25 late CE fee must be paid to complete the renewal.

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